



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Izembek National Wildlife Refuge
P.O. Box 127
Cold Bay, Alaska 99571

Final Limited Area Closure Document Off-Road Vehicle Use for Subsistence Purposes July 1, 2005

INTRODUCTION

A transportation project, the King Cove Access Project, has been approved for the east side of Cold Bay waters. This project provides for a marine-road link to be constructed between the communities of King Cove and Cold Bay. As part of this project, a road and hovercraft terminal would be built on King Cove Corporation lands.

Izembek National Wildlife Refuge (Refuge) lands are located within one-half mile of the project. The potential impacts of off-road vehicles (ORVs) on these adjacent lands are the focus of this document. ORVs are defined as any terrestrial motorized transport taken off-road.

This document only addresses the use of ORVs when used for Atraditionally employed@ subsistence access off established roads on Izembek Refuge lands. It does not apply to State, private, or Native corporation-owned lands. Recreational (non-subsistence) use of ORVs and other vehicles are prohibited on national wildlife refuges, except on designated routes of travel, by regulation in 50 CFR 27.31. With respect to recreational uses, this regulation was not amended by ANILCA and therefore remains in effect.

LEGISLATIVE HISTORY

In December 1980, Congress enacted the Alaska National Interest Lands Conservation Act (ANILCA; Public Law 96-487). This act redesignated the existing Izembek National Wildlife Range as the Izembek National Wildlife Refuge. The Izembek National Wildlife Range was established by Public Land Order 2216 on December 6, 1960.

Section 702(6) of ANILCA designated approximately 300,000 acres (95 percent) of the Izembek Refuge as the Izembek Wilderness Area, to be managed in accordance with provisions of the Wilderness Act of 1964, as modified by ANILCA.

Refuge Purposes:

As designated by ANILCA, Section 303(3)(B):

- (i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, waterfowl, shorebirds and other migratory birds, brown bears and salmonoids;
- (ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;
- (iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and
- (iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

As designated by the Wilderness Act of 1964 (16 U.S.C. 1131-1136), Section 2.(a):

"For this purpose there is hereby established a National Wilderness Preservation System to be composed of federally owned areas designated by the Congress as "wilderness areas," and these shall be administered for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as wilderness..."

National Wildlife Refuge System Mission:

The mission of the National Wildlife Refuge System is to administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans. (National Wildlife Refuge System Improvement Act of 1997; Public Law 105-57, October 9, 1997.)

BACKGROUND

ANILCA provides special exceptions governing access to Alaska Federal conservation system units (CSUs). Section 811 of ANILCA states that rural residents shall have reasonable access to subsistence resources on public lands, including the use of snowmobiles, motorboats, and other means of surface transportation traditionally used for this purpose. By way of regulations at 50 CFR 36.12(b), the Refuge Manager may restrict or close a route or area to the methods of access authorized by Section 811(b) of ANILCA if it is determined that such use is causing or is likely to cause adverse impact on public health and safety, resource protection, protection of historic or scientific values, subsistence uses, conservation of endangered or threatened species, or other purposes and values for which the Refuge was established.

The King Cove Health and Safety Act (Sec.353) of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 (Public Law 105-277) provided \$20 million for the

Aleutians East Borough (AEB) to construct a marine-road transportation system between the communities of King Cove and Cold Bay, Alaska. The AEB submitted an application for a permit to construct a marine-road link to the U.S. Army Corps of Engineers (COE), Alaska District, in 2002. The COE, in cooperation with the Fish and Wildlife Service, released the King Cove Access Project, Final Environmental Impact Statement (FEIS) in December 2003. The proposed transportation alternative (Alternative 1) presented in the FEIS was for construction of a 17.2 mile road along the east side of Cold Bay between the King Cove airstrip and a proposed Northeast Cold Bay (NeCB) hovercraft terminal. A 5.6 mile portion of this road would be built on King Cove Corporation lands located within the legislative boundary of Izembek Refuge. The COE issued a Record of Decision on January 15, 2004, selecting Alternative 1 for construction.

The King Cove Access Project has produced the need to address ORV access issues on the east and northeast side of Cold Bay, in order to incorporate the project mitigation designs into the FEIS.

The presence of a new road adjacent to Refuge lands raises question about the potential impacts. A traditionally employed subsistence ORV access off of designated roads or trails could have on public health and safety, resource protection, protection of historic or scientific values, subsistence uses, conservation of endangered or threatened species, or other purposes and values for which the Refuge was established.

AREA DESCRIPTION

The closure area being addressed in this document is restricted to Izembek National Wildlife Refuge lands in:

Township 57 South, Range 87 West – Seward Meridian, Section 9 $S\frac{1}{2}S\frac{1}{2}SE\frac{1}{4}SE\frac{1}{4}$, from the northwestern most point of $S\frac{1}{2}S\frac{1}{2}SE\frac{1}{4}SE\frac{1}{4}$ the point of beginning (POB), west to the southern bank of an unnamed stream, then following the unnamed stream west north and south to a point on the east west section line between section 8 and section 9, then south to the intersection between section 8, section 9, section 16 and section 17, then east on a line between section 9 and section 16 for $\frac{3}{4}$ of a mile to the southwestern point of $S\frac{1}{2}S\frac{1}{2}SE\frac{1}{4}SE\frac{1}{4}$, then north along the $S\frac{1}{2}S\frac{1}{2}SE\frac{1}{4}SE\frac{1}{4}$ to the POB; Section 10 $S\frac{1}{2}S\frac{1}{2}S\frac{1}{2}S\frac{1}{2}$; Section 15; Section 22; Section 27; Section 34. Containing approximately 2,640 acres.

This area has been designated because it provides a minimum area for closure bordering King Cove Corporation conveyed and selected lands. The selected lands, which are currently managed by the Izembek National Wildlife Refuge under Section 906(o) of ANILCA, were included because by law they must be managed as Refuge lands until conveyed. The area is shown in the map A Final ORV Closure Area.

ANALYSIS

The Refuge Manager may restrict or close a route or area to the use of snowmobiles, motorboats, dog teams or other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses if the Refuge Manager determines that such use is causing or is likely to cause adverse impact on public health and safety, resource protection, protection of historic or scientific values, subsistence uses, conservation of endangered or threatened species, or other purposes and values for which the Refuge was established.

(a) Public Health and Safety

There are no known public health and safety issues that would in themselves constitute a determination of adverse impact and be considered cause to close Refuge lands to the use of ORVs. There are, however, inherent public health and safety issues related to most ORVs. The inherent hazards of operating ORVs off-road in steep, rocky and/or otherwise rough terrain does initiate concern. In addition, use of ORVs by inexperienced operators, youths (especially without parental supervision), and adults without proper safety equipment or at excessive speed can result in personal injuries, even under proper trail conditions.

(b) Resource Protection

The attached document, AImpact Analysis of Off-Road Vehicle Use for Subsistence Purposes on Refuge Lands and Resources Adjacent to the King Cove Access Project@, dated April 1 , 2004, provides an in-depth analysis of habitat and wildlife resources that would be affected by ORVs when operated off established roads and trails. The conclusion of this analysis is that unrestricted ORV access on Refuge lands is unwarranted and would be detrimental to the rich wildlife resources that occur within this relatively small geographic area.

From a perspective of resource protection, there would be adverse impacts if a closure was not implemented.

(c) Protection of Historic or Scientific Values

Historic and Archaeological Resources

Numerous prehistoric and historic cultural resources have been found during surveys of the Izembek Lagoon and Cold Bay area. To date, most survey effort has been focused on the town of Cold Bay, the shores of Izembek and Big Lagoons, and along the banks of the Joshua Green River (Maschner *et al.* 1997). Prehistoric sites in the region have been generally located near the coast, at outlets of freshwater streams, or where lakes exist close to the coast. They are also found in areas where these conditions formerly prevailed, relict shorelines and abandoned stream meanders (Maschner 1997; 2002; Dumond 1987). According to Maschner (2002) 90% of sites will predictably be found in these areas while the remaining 10% appear, to modern eyes, randomly situated on the landscape. Little

effort has been made to study historic resources but it is likely they too would demonstrate an orientation toward marine and riverine resources. No sites older than 6000 years have been identified. Maschner (2002) explains that researchers have “not, as yet, identified the types of landforms that preserve cultural resources of this early time period”. Dumond (1987) points out that upland caribou hunting sites may be small, ephemeral, and difficult to predict in upland areas. A survey of the King Cove Road corridor located 11 sites, most near the modern shoreline (Maschner 2002). It is undetermined how many archeological sites are located within the adjacent closure area.

Unrestricted ORV use damages sites in two general ways. Direct impacts caused by vehicles running over sites mirror those amply documented for habitats (Rickard and Brown 1974; Wilshire et al.1978; Ahlstrand et al.1988; Bane 2001). These include compaction of soil, loss of vegetation cover and altered hydrology. On archaeological sites these impacts change the surface characteristics of a site that affect scientific values through compaction of surface and subsurface features (remains of houses, burials, hearths, storage pits etc.), and breakage of artifacts. Site integrity, a necessary element for listing on the National Register of Historic Places, (36 CFR 60.4; National Park Service 1997) is also affected by the visible changes wrought by vehicle tracks and erosion.

Indirect impacts arise as a result of the direct impacts of vehicle damage to sites as well as from making formerly inaccessible areas more accessible. Erosion of sites exposes artifacts that are then collected by passersby. Examples from refuges in Alaska have included incidents at Peterson Lagoon on Unimak Island (Corbett 1993; 2004), Becharof Lake (Hood 1995), and Russian River (Corbett 1997). Equally, or more, damaging is the increased access to formerly remote sites caused by unregulated ORV use. Damage to archaeological sites increases dramatically when the sites are accessible enough to be reached but remote enough to preclude monitoring (Corbett and Reger 1994; Reger and Corbett 1999; Steffian et al. 2003).

From a perspective of protection of historic values, there would be an adverse impact if a closure were not implemented.

(d) Subsistence Uses

One of the refuge purposes is to provide the opportunity for continued subsistence uses by local residents. This is to be done in a manner consistent with the purposes set forth in subparagraphs (i) which states, to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, waterfowl, shorebirds and other migratory birds, brown bears and salmonids.

As the document entitled, *Historical Review of the Use of Motorized Vehicles on Lands Administered by Izembek Refuge* concludes: A... it is unlikely that traditional off-road use of motorized vehicles ever developed. The area for closure is not favorable to ORV use due to rocky, steep terrain and the presence of thick vegetation. In essence, the use of ORVs off-road for subsistence use has not been occurring and if allowed, at this point in time, would constitute an increase.

Uncontrolled ORV access for subsistence purposes would have negative impacts on wildlife populations. This would occur either through increased levels of harvest (current wildlife and fish regulations have been based on no off-road use of ORVs), and increased levels of disturbance. Similarly, the effect on habitat would have negative impacts. These issues are addressed in Section (b), Resource Protection.

From a perspective of subsistence uses, there would be an adverse impact if a closure were not implemented.

(e) Conservation of Endangered or Threatened Species

In the proposed closure area, there are no known endangered or threatened species issues that would constitute a determination of adverse impact and be considered cause to close Refuge lands to the use of ORVs.

(f) Other Purposes and Values For Which The Refuge Was Established

There are no other known issues that would constitute a determination of adverse impact and be considered cause to close Refuge lands to the use of ORVs.

CONCLUSION

The use of motorized ORVs, for subsistence purposes, off of designated roads and trails, is closed in the described area. Traditional ORV access for subsistence purposes was not found to have occurred either pre or post ANILCA due to the steep, rocky terrain and thick vegetation of the area. This decision will not significantly change current use of the area.

The purposes of the Refuge provide for “the opportunity for continued subsistence uses by local residents in a manner consistent with the purposes set forth to conserve fish and wildlife populations and habitats in their natural diversity.” There must be a balance between reasonable access, and unreasonable impact and disturbance of wildlife and their habitats.

Degradation of the environment and the resources it supports through unlimited and unregulated access will ultimately degrade future opportunities for subsistence use and would violate the purposes for which Izembek National Wildlife Refuge was established.

Based on the analysis presented, the Refuge Manager of Izembek National Wildlife Refuge determines, in accordance with 50 CFR 36.12, that the use of ORVs, when used for traditionally employed subsistence access, is likely to cause adverse impact on resource protection, protection of historic values, and subsistence uses for which the refuge was established.

During discussions with the Aleutians East Borough (AEB), King Cove Corporation (KCC) and State of Alaska, these entities have provided their concurrence to this closure.

PUBLIC REVIEW

Two public meetings were held in May concerning the proposed closure. One meeting was held at the Community Center in Cold Bay on May 2, 2005. Eight agency representatives (FWS, AEB, Cold Bay Mayor) attended this meeting with 5 community members in attendance. Another meeting was held on May 3, 2005 at the King Cove Community Center. Nine agency representatives (FWS, AEB, King Cove Corporation and King Cove Mayor), and 7 community members. The purpose of the initial public hearings was to accept comments regarding the proposed closure. The public then had a 30 day comment period to respond to the proposal. The comment period closed on June 3. As stated in 50 CFR 36.12(c), @No restrictions or closures shall be imposed without notice and a public hearing in the affected vicinity and other locations as appropriate.@ After considering the public comments, the refuge manager will make a final determination and repeat the public notice and hearings process.

Public notice consisted of sending a news release describing the meeting locations and appropriate document(s) in the Dutch Harbor Fisherman, Anchorage Daily News, and KDLG Radio Station in Dillingham, Alaska. Flyers were sent to all subsistence qualified village post offices, Native tribal and corporation offices, and the Aleutians East Borough office.

PUBLIC COMMENTS

The majority of the comments came from the two public meetings held in the communities of Cold Bay and King Cove. One written comment letter was received from the Wilderness Society during the open comment period. Below is a summary of the comments directly related to the closure and responses to the comments.

Size of the closure area is too small. Why isn't the area north of the hovercraft site proposed for protection? Why don't you take the four sections, cut them in half and continue them around to the north?

The minimum area proposed will suffice at this time. If additional impacts occur after the road and hovercraft area are operational we will reevaluate the closure to determine if additional areas should be closed to off road vehicle access by subsistence users.

The four sections are on selected lands. What happens when the selected lands are conveyed to the King Cove Corporation? Could this closure affect the opportunity of King Cove receiving these lands?

The four sections are currently under the management of the refuge until such time as the land is transferred to the King Cove Corporation. Once the lands are conveyed the closure will be void and we will reevaluated and go through the public process if other areas need to be closed. This closure should not affect the opportunity of King Cove Corporation to receive the selected lands.

Concerned that local comments will get over ridden by outsider comments.

The comment process is not a voting process rather a gathering of public comments to assist in determining the final decision. This decision will affect the local public more directly than “outsiders” and this was considered in the final decision.

Why do you need the closure area if the cable barrier and fence around the hovercraft terminal will be in place?

The Fish and Wildlife Service does not have any jurisdiction on off road vehicle use on the King Cove Corporation Land. This closure will allow the Service to legally protect it’s managed lands as closed to off road vehicle access in the proposed closure area.

Fence at hovercraft terminal is to keep bears out not keep people in.

The fence and cable barrier were agreed to in the Environmental Impact Statement for the King Cove Access Road construction. These are stipulations were agreed to by the Aleutians East Borough, King Cove Corporation, Fish and Wildlife Service, and Army Corps of Engineers in order to reduce impacts to refuge lands and resources (including the subsistence resources) from the expected increase in traffic in that area.

Subsistence needs of the local community will be met without additional access using ORV’s from the new road [support for the closure].

Documentation for this process including the *Historical Review of the Use of Motorized Vehicles on Lands Administered by Izembek Refuge* supports this comment.

SIGNATURE

Refuge Manager:


(Signature)

Date: 7/20/2005

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